



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: Larry R. Romero  
File: B-253033  
Date: November 16, 1993

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### DIGEST

1. An employee's official duty station was Salt Lake City, Utah, and the Army assigned him temporary duty in San Bernardino, California, which office selected him for a permanent position there. However, the employee's final period of temporary duty in San Bernardino was terminated by a return to Salt Lake City for substantial official business. The effective date of his transfer for per diem purposes is the date on which he returned to San Bernardino to stay at his new position, after his completion of official business in Salt Lake City. See Robert W. Arndorfer, B-214966, Dec. 27, 1984.
2. An employee's claims for a per diem allowance and other temporary duty expenses, after the effective date of his transfer for per diem purposes to his new duty station at which he had performed temporary duty are denied. See Robert W. Arndorfer, B-214966, Dec. 27, 1984.
3. An employee's claim for temporary quarters subsistence expenses is denied since the quarters he occupied were intended to be permanent. See 41 C.F.R. § 302-5.2(c) (1993).

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### DECISION

The Department of the Army requests a decision as to the correct effective date of an employee's transfer for per diem purposes after a temporary duty assignment at the office which became an employee's new official station, and requests a decision on this employee's claims.<sup>1</sup> We explain our calculation of the correct effective date, under the exception to the general rule in Robert W. Arndorfer,

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<sup>1</sup>This matter was submitted by Mr. Alan K. Sato, Chief Finance and Accounting Division, Corps of Engineers, Department of the Army, San Francisco, California.  
Reference: CESPd-RM-F.

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B-214966, Dec. 27, 1984, below, and we deny the employee's claims.

The Army's report shows that Mr. Larry R. Romero, whose official station was Salt Lake City, Utah, was assigned temporary duty for 120 days at an Army office in San Bernardino, California. He began this temporary duty on Tuesday, January 21, 1992, and his last day on that assignment was expected to be Friday, May 15, 1992. Due to the anticipated length of his temporary duty assignment, he rented an apartment.

In April 1992, the Army selected Mr. Romero for a position, in the interest of the government, at the same office in San Bernardino, California, where he was performing his temporary duty assignment. The Army also continued his 120-day temporary duty assignment so that he could continue to assist the Army activity which would become his new office. On April 14, 1992, Mr. Romero signed a 12-month transportation agreement, as required by 41 C.F.R. § 302-1.5(a) (1992), and mailed it back to the Human Resources Office in Salt Lake City, Utah. After receiving it, the Human Resources Office personnel told Mr. Romero that the effective date of his transfer would be Sunday, May 17, 1992. Our Office has also been informed that on April 16, 1993, Mr. Romero moved from the apartment which he occupied for most of his temporary duty period into another apartment in which he now resides. Thus, the quarters occupied on April 16, 1993, were intended to be permanent quarters.

On May 28, 1992, when Mr. Romero consulted with the Finance and Accounting Office personnel, he was informed, for the first time, that their office considered his temporary duty to have ended on April 14, 1992, the day he signed the 12-month transportation agreement. Subsequently, that office informed Mr. Romero that it considered his temporary duty to have ended on April 26, 1992, since it had been informed that Mr. Romero had returned to Salt Lake City, Utah, on official business and had performed substantial duties there for the period of April 24 to 26, 1992. We note that the Army has compensated Mr. Romero for all temporary duty expenses which he is due up to April 26, 1992.

On June 16, 1992, the Finance and Accounting Office informed Mr. Romero that he had to pay back his per diem allowance of \$387.95 for the period of April 26 to 30, 1992, and that a travel advance of \$2,705 for temporary duty expenses for May 1992 had to be returned. The Army has recouped these funds, totaling \$3,092.95, from Mr. Romero. The Finance and Accounting Office actions thus denied Mr. Romero's claim for a per diem allowance from April 26 to 30, 1993, and his

claim for temporary duty expenses from May 1 to 16, 1992. The Finance and Accounting Office also denied his claim for temporary quarters subsistence expenses (TQSE) from May 17 to 31, 1992.

The Army's report views its actions in regard to the recoupment of Mr. Romero's per diem allowance as required by our Office's decisions. Mr. Romero believes, however, that the Army's actions are unjust and wants the matter reviewed. He says that he was informed that his effective date of transfer would be May 17, 1992, that he did not receive his transfer orders until May 22, 1992, and that nothing was mentioned to him that his temporary duty status would end and that his transfer would be effective, for per diem purposes, on April 26, 1992.

Our decisions have held that where an employee is transferred to a place at which he is already on temporary duty, the transfer is effective for per diem purposes on the date he receives definite notice, whether formal or informal, of the transfer. However, we have recognized an exception to the foregoing general rule in situations where an employee performs a period or periods of temporary duty at his new official station between the time he receives definite notice of his transfer and the effective date of his transfer, if such period or periods are terminated by a return to the old station on official business. See Robert W. Arndorfer, B-214966, Dec. 27, 1984, and cases cited therein. Thus, as applied to Mr. Romero's situation, the effective date of his transfer for per diem purposes is Sunday, April 26, 1992, the date on which he returned to San Bernardino, California, to stay at his new position, after completing his subsequent, substantial official business in Salt Lake City, Utah, during the period of April 24 to 26, 1992. On the basis of Robert W. Arndorfer, B-214966, Dec. 27, 1984, and cases cited therein, the Army thus correctly denied his claim for a per diem allowance for April 26 to 30, 1992.

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<sup>1</sup>Per diem is generally allowed only when an employee is away from his permanent duty station. The primary issue in Robert W. Arndorfer, B-214966, Dec. 27, 1984, and its predecessors is whether the employee is actually performing temporary duty or whether the employee has effectively started his new permanent assignment. Id. at 3. Furthermore, the purpose of examining the nature of an employee's return to his permanent duty station and other factors is to determine whether the duty at the newly assigned permanent duty station is an integral part of the new assignment so as to make the payment of per diem inappropriate, or whether the duty is distinct from the new assignment and can be legitimately classified as temporary duty. Id. at 5.

Likewise, the Army correctly recouped the travel advance of \$2,705 for May 1992, which was given to Mr. Romero for temporary duty expenses for the period of May 1 to 16, 1992. As shown above, Mr. Romero is not considered to be on temporary duty for May 1 to 16, 1992, but rather on permanent duty at his new official station. See Robert W. Arndorfer, B-214966, supra. The Army also correctly denied Mr. Romero's claim for TQSE since the quarters he occupied on April 16, 1993, were intended to be permanent quarters. See 41 C.F.R. § 302-5.2(c) (1993).

Accordingly, Mr. Romero's claims are denied.

*Signature*

James F. Hinchman  
General Counsel